

# Medical Liability Reform: A Tale of Two States

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By Jackeline Villalobos, D.O.

In 2003, doctors in both Texas and New York faced a crisis. Excessive, costly and often baseless litigation was forcing physicians to limit their practices or shut their doors altogether. Hospitals were spending increasing amounts for lawsuits rather than investing in patient care. Leaders in Texas, encouraged by physicians across the state, took action to curb lawsuit abuse. In New York, on the other hand, efforts to pass lawsuit reforms stalled.

Nine years later, the climate for practicing medicine in the two states couldn't be more different. Texas is where physicians want to practice; our hospitals are able to invest liability savings into patient care, safety programs and charity care. In New York, meanwhile, doctors are retiring early and declining to take high-risk patients while hospitals are forced to choose between adding more care providers and paying their medical liability premiums.



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The success of reforms in Texas cannot be denied. Of the more than 27,000 physicians that have been licensed to practice in Texas since 2003, nearly 2,000 did their training or had an active practice in New York. Like me, many came here because of the reformed legal climate.

This is great news for Texans: more doctors means greater access to care for Texas patients. Remember, at the height of the liability crisis in Texas, many patients went without access to critical health care services. I've heard the stories: heart patients forced to brave long trips to the closest cardiologist; trauma patients in hospitals with no doctors to care of them; and expectant moms who traveled hundreds of miles to find a doctor to deliver their babies. Lawsuit reforms changed these harsh realities in Texas.

In New York, on the other hand, doctors are finding it harder than ever to care for their patients. Today, the average obstetrician in New York stops practicing by age 48, largely due to out-of-control medical liability costs. One New York hospital went so far as to close its obstetrics practice all together out of fear of lawsuits. Yet, New York remains unable to pass lawsuit reforms.

As an obstetrician who left New York for Texas due to high liability costs, I know firsthand that medical liability reform can make a difference. In New York, I worked at a clinic that catered to pregnant women and was one of the few bilingual doctors who could communicate with our Spanish-speaking patients. The work was challenging and rewarding, but, like many doctors in New York, the liability climate made it impossible for me to continue practicing medicine.

My practice partner and I knew something had to change in 2009, when we were billed \$168,000 each for our liability insurance and then told to expect a five to 12 percent rate hike the following year. I couldn't see enough patients or deliver enough babies to absorb that cost and I was already delivering ten babies a day. Additionally, I had an unblemished practice without a single lawsuit payment made to a patient. My partner and I tried splitting our practice, with him taking care of the office practice and me handling all deliveries. We even tried taking the drastic step of eliminating all high-risk pregnancies from our practice, but still nothing worked to lower our liability premium. Finally, we extended our office hours and opened on Saturday's to generate additional revenue to try an offset our spiraling liability costs but to no avail.

I witnessed many frivolous suits being filed only to be dismissed years later but still leaving a permanent impact on our lives and records. Physician morale was low.

By 2010, I simply couldn't afford to practice in New York. Leaving Brooklyn and my practice was a sad day for me and my patients, but the legal climate forced me to pack my bags and move to Texas.

My story is a tale of two states: one whose leaders stood up and did what was right and necessary to help patients and their doctors, and one whose leaders can't break free from the grip of the personal injury trial bar. As long as New York suffers from out-of-control litigation and skyrocketing liability costs, doctors will be wary of practicing there and patients will suffer. The Texas reform story is a model for the nation. As we reach the ninth anniversary of the passage of medical lawsuit reforms, it's important to remember how far we have come, and make sure we protect the reforms that have improved access to care for so many Texans.

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